

Natasha Prinzing Jones
BOONE KARLBERG P.C.
201 West Main St., Suite 300
Missoula, MT 59807
(406) 543-6646
npjones@boonekarlberg.com

Attorney for Plaintiffs

Rob Cameron
JACKSON, MURDO & GRANT, P.C.
203 North Ewing
Helena, MT 59601
(406) 398-8244
rcameron@jmgattorneys.com

Attorney for Consolidated Plaintiff

(additional counsel listed on signature page)

Christian B. Corrigan
Solicitor General
Peter M. Torstensen, Jr.
Deputy Solicitor General
Montana Department of Justice
P.O. Box 201401
Helena, MT 59620
(406) 444-2026
Christian.Corrigan@mt.gov
Peter.Torstensen@mt.gov

Attorneys for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

SAMANTHA ALARIO, et al.,)	
)	
)	
<i>Plaintiffs,</i>)	
and)	
)	CV 23-56-M-DWM
TIKTOK INC.,)	CV 23-61-M-DWM
)	
<i>Consolidated Plaintiff,</i>)	JOINT STIPULATION
)	OF FACTS
v.)	
)	
AUSTIN KNUDSEN, <i>in his official</i>)	
<i>capacity as Attorney General of the</i>)	
<i>State of Montana,</i>)	
)	
<i>Defendant.</i>)	

The parties, Samantha Alario, Heather DiRocco, Carly Ann Goddard, Alice Held, Dale Stout (collectively “Creator Plaintiffs”), TikTok Inc. (“Consolidated Plaintiff”), and Austin Knudsen in his official capacity as the Attorney General for the State of Montana (“Attorney General Knudsen”), by and through their respective attorneys of record, submit this joint statement of stipulated facts that are admitted and require no proof as required by Local Rule 16.2(b)(3) and the Court’s Order dated December 5, 2023:

A. Parties

1. Plaintiffs Samantha Alario, Alice Held, and Dale Stout are users of the TikTok platform living in Missoula, Montana.
2. Plaintiff Heather DiRocco is a user of the TikTok platform living in Bozeman, Montana.
3. Plaintiff Carly Ann Goddard lived in Montana at the time this lawsuit was filed, but now lives in the State of Florida.
4. Each of the Creator Plaintiffs has an account on the TikTok platform.
5. Each of the Creator Plaintiffs creates content in the form of videos on various topics, which he or she uploads to his or her TikTok account.
6. Each of the Creator Plaintiffs also uses their TikTok accounts to consume content from other creators.
7. As of December 21, 2023, Plaintiff Samantha Alario’s TikTok account (@yourfavoritebikini mama) had at least 15,800 followers. As of

December 21, 2023, Plaintiff Samantha Alario's Facebook account (user name: Gemini Mountain Swimwear) had at least 1,600 followers. As of January 15, 2024, Plaintiff Samantha Alario's Instagram account (user name: gemini_mtn_swimwear) had at least 16,500 followers).

8. As of December 21, 2023, Plaintiff Alice Held's TikTok account (@mountainalice) had at least 217,700 followers. As of December 21, 2023, Plaintiff Alice Held's Instagram account (@mtn.alice) had 7,045 followers.

9. As of December 21, 2023, Plaintiff Dale Stout's TikTok account (@mt_guy) had at least 43,700 followers.

10. As of December 21, 2023, Plaintiff Heather DiRocco's TikTok account (@ladydredknot) had at least 199,500 followers. As of December 21, 2023, Plaintiff Heather DiRocco's Instagram account (@ladydredknot) had at least 23,100 followers. As of January 9, 2023, Plaintiff Heather DiRocco's YouTube account (@LadyDredknot) had 236 subscribers.

11. As of December 21, 2023, Plaintiff Carly Goddard's TikTok account (@carlygoddardd) had at least 110,400 followers. As of December 21, 2023, Plaintiff Carly Goddard's YouTube account (@carlygoddardd) had 196 subscribers. As of January 9, 2024, Plaintiff Carly Goddard's Instagram account (carlyanngoddard) had at least 6,854 followers.

12. TikTok Inc. is a California corporation, with its principal address in Culver City, California.

13. ByteDance Ltd. is the ultimate parent corporation of TikTok Inc.

14. Defendant Austin Knudsen is the Attorney General of Montana, which is the head of the Montana Department of Justice.

B. The TikTok Platform

15. TikTok is an online platform that enables users to create, share, and view videos.

16. The TikTok platform allows users to create and upload videos.

17. The TikTok platform allows creators to use sounds, filters, and special effects in creating their videos.

18. The TikTok platform's comment feature allows users to communicate with other users by responding or reacting to a TikTok video.

19. The TikTok platform offers a "For You" page, which opens to a collection of videos that is curated by TikTok's recommendation system.

20. Users of the TikTok platform can also utilize the platform's "Following" page to watch videos from creators they have chosen to follow.

21. In addition to sharing and commenting on videos, TikTok users can, among other things, like, and share creators' videos, "tag" other users in comments, use the platform's "duet" and "stitch" tools to create new content that incorporates and responds to content created by others, use the "TikTok LIVE" feature to communicate live with others on the platform, and send direct messages to one another.

22. TikTok creators have the ability to earn money from creating content on the platform—including through brand deals, live-streaming, and advertising their businesses on the platform.

23. The TikTok platform was first launched globally in 2017 and re-launched in the United States in August 2018.

24. Users must agree to the TikTok platform's Terms of Service and Privacy Policy as a condition of accessing and using the platform.

25. TikTok Inc. has published Community Guidelines.

26. TikTok Inc.'s Community Guidelines state, among other things, "We do not allow showing or promoting dangerous activities and challenges. This includes dares, games, tricks, inappropriate use of dangerous tools, eating substances that are harmful to one's health, or similar activities that may lead to significant physical harm."

27. TikTok Inc.'s Community Guidelines further state that "[c]ontent is age-restricted if it shows activities that are likely to be imitated and may lead to any physical harm. Content is ineligible for the [For You Feed] if it involves activities that are likely to lead to moderate physical harm, or includes professionals who are performing extreme sports and stunts that may endanger others."

28. TikTok Inc.'s Community Guidelines further state that TikTok Inc. "also appl[ies] warning information to this type of content."

29. TikTok Inc. publishes a quarterly Community Guidelines Enforcement Report.

30. The TikTok platform has users in Montana.

31. TikTok Inc. has an account on the TikTok platform.

32. On December 22, 2023, the U.S. Department of Justice filed a status report in *TikTok Inc. v. CFIUS*, No. 20-1444 (D.C. Cir.), stating that TikTok Inc. and the Committee on Foreign Investment in the United States “continue to be involved in ongoing negotiations to determine whether th[e] case may be resolved by mutual agreement.”

C. SB 419

33. SB 419 is titled “An Act Banning TikTok in Montana.”

34. Defendant Knudsen testified in a legislative hearing involving SB 419.

35. SB 419 was sponsored in the Montana Senate by Senator Shelley Vance.

36. Senator Vance introduced SB 419 in the Montana Senate on February 20, 2023.

37. The Montana Senate Business, Labor and Economic Affairs Committee held a hearing on SB 419 on February 27, 2023.

38. The Montana Senate passed SB 419 on March 2, 2023.

39. The Montana House of Representatives Judiciary Committee held a hearing on SB 419 on March 28, 2023.

40. At the March 28, 2023, hearing, Senator Vance stated that the bill “puts an end to China’s surveillance operation in Montana.”

41. At the same March 28, 2023, hearing, Attorney General Knudsen stated, “TikTok is spying on Americans, period. TikTok is a tool of the Chinese Communist Party. It is owned by a Chinese company, and under China law, if you are based in China, you will cooperate with the Chinese Communist Party, period.” Attorney General Knudsen also stated, “This is a business that is controlled by an existential threat and enemy of the United States, and that’s China’s own words. China considers America its largest enemy by their own military doctrines and publications. They see a war with the United States as inevitable, and they’re using TikTok as an initial salvo in that war.” Attorney General Knudsen further stated, “[w]hen we’re talking about the First Amendment, what is the best way to get your message, to get your free speech out there? It’s no longer to stand on an apple cart in the public square and give a speech. It’s to get on social media. We know that. The best way to spread your message is via social media.”

42. Representative Neil Duram stated at the same hearing that “TikTok is the music played by the Pied Piper to steal this generation’s heart and mind.”

43. The Montana House of Representatives considered SB 419 at a floor session on April 13, 2023.

44. Representative Brandon Ler stated during the April 13, 2023, floor session: “I believe it’s time we stand up to the Chinese and ban TikTok.”

Representative Ler further stated “we are facing a threat unlike any other from the Chinese Communist Party hiding behind TikTok where they can spy on Americans by collecting personal information by keystrokes and even user locations. That’s why I urge you to join me in voting yes on Senate Bill 419 to ban TikTok in Montana. TikTok is a national security threat.”

45. Representative Katie Sullivan stated during the same April 13, 2023, floor session, “I don’t believe that this bill as written is taking privacy and security seriously. We only have one company listed and we only have one country listed. Why would we do that, why would we limit to one company and one country when we know very well that [other] social media companies are doing the same thing?”

46. The Montana House of Representatives passed SB 419 on April 14, 2023.

47. Governor Gregory Gianforte signed SB 419 into law on May 17, 2023. In a press release regarding the signing, he stated, “The Chinese Communist party using TikTok to spy on Americans, violate their privacy, and collect their personal, private, and sensitive information is well documented. Today, Montana takes the most decisive action of any state to protect Montanans’ private data and sensitive personal information from being harvested by the Chinese Communist Party.”

48. SB 419 has an effective date of January 1, 2024.

49. SB 419 provides, “Tiktok may not operate within the territorial jurisdiction of Montana.”

50. An “entity” violates SB 419 when any of the following occurs within the territorial jurisdiction of Montana: “the operation of tiktok by the company or users,” or “the option to download the tiktok mobile application by a mobile application store.” SB 419 defines “entity” as “a mobile application store or tiktok.”

51. An entity that violates SB 419 “is liable in the amount of \$10,000 for each discrete violation,” defined as “each time that a user accesses tiktok, is offered the ability to access tiktok, or is offered the ability to download tiktok,” and “is liable for an additional \$10,000 each day thereafter that the violation continues.”

52. SB 419 is “void if tiktok is acquired by or sold to a company that is not incorporated in any other country designated as a foreign adversary in 15 C.F.R. 7.4 at the time tiktok is sold or acquired.”

Dated: January 16, 2023

Respectfully submitted,

/s/ Natasha Prinzing Jones

Natasha Prinzing Jones
BOONE KARLBERG P.C.
201 West Main St., Suite 300
P.O. Box 9199
Missoula, MT 59807
(406) 543-6646
npjones@boonekarlberg.com

Ambika Kumar*
Tim Cunningham*
DAVIS WRIGHT TREMAINE LLP
920 Fifth Avenue, Suite 330
Seattle, WA 98104-1610
(206) 622-3150
ambikakumar@dwt.com
timcunningham@dwt.com
*admitted pro hac vice

Attorneys for Plaintiffs
Samantha Alario, Heather
DiRocco, Carly Ann Goddard,
Alice Held, and Dale Stout

/s/ Rob Cameron

Rob Cameron
JACKSON, MURDO & GRANT, P.C.
203 North Ewing
Helena, MT 59601
(406) 389-8244
rcameron@jmgattorneys.com

Alexander A. Berengaut*
Megan A. Crowley*
COVINGTON & BURLING LLP
850 Tenth Street, NW
Washington, DC 20001
(202) 662-5367

/s/ Christian B. Corrigan

Christian B. Corrigan
Solicitor General
Peter M. Torstensen, Jr.
Deputy Solicitor General
MONTANA DEPARTMENT OF JUSTICE
P.O. Box 201401
Helena, MT 59620
(406) 444-2026
christian.corrigan@mt.gov
peter.torstensen@mt.gov

Attorneys for Defendant

aberengaut@cov.com
mcrowley@cov.com
*admitted pro hac vice

*Attorneys for Consolidated Plaintiff
TikTok Inc.*